

GENERAL ORDINANCE NO. 95-1  
FOOD ESTABLISHMENT ORDINANCE

WHEREAS, the Board of County Commissioners of Boone County, State of Indiana, deems it advisable for the promotion of Public Health to establish health and sanitary regulations for food service establishments, and retail food markets, and bed and breakfast establishments, and

WHEREAS, the Board of County Commissioners of Boone County have the authority to impose said regulations pursuant to I.C. 36-8-2;

BE IT ORDAINED by the Board of County Commissioners of Boone County that the provisions of this ordinance are effective within Boone County and provisions of this ordinance shall be enforced by the Boone County Health Department.

Section I. Definitions

The definitions stated in applicable Indiana State Department of Health Regulations regarding food service establishments, retail food markets and, bed and breakfast establishments, incorporated herein. Two copies of said Indiana State department of Health Regulations shall be held in the Boone County Auditor's Office and made available to the public.

"Health Officer" shall refer to the Boone County Health Officer or his duly authorized representative.

Section II. Permits

**A. PERMITS** – it shall be unlawful for any person to operate a food service establishment, temporary food service establishment, retail market or bed and breakfast establishment, in Boone County who does not possess a valid permit from the Health Officer. Only persons who comply with the applicable requirements of this ordinance shall be entitled to receive and retain such a permit. The permit for a full time establishment shall be for a term of one year and shall be renewed annually, on or before January 10.

1. A separate permit shall be required for each food establishment operated or to be operated by any person.
2. A permit issued under this Ordinance is not transferable. Any transfer of ownership interest in a food establishment (including sale by installment contract) shall require a new permit application.

3. Permits are needed for all temporary food service establishments that operate more than three (3) days.

4. Temporary food service establishments that operate three (3) days or less must register with the Boone County Health Department before the event.

5. No permit or renewal thereof shall be denied or revoked on arbitrary or capricious grounds.

**B. PERMIT FEE** – a permit fee as set forth in the Boone County Health Department Fee Ordinance shall be paid annually for each full time food establishment permit issued beginning January, 1977. Temporary food service establishments that require a permit shall pay for each event. All such fees shall be collected by the Health Officer and deposited in the Boone County Health Fund.

1. The permit fee provisions of this Ordinance shall not apply for temporary food service establishments who operate for three (3) days or less.

**C. PERMIT EXEMPTIONS** – No permit shall be required, under IC 16-42-5-4 (1993), for an establishment operated by an organization that is exempt from the Indiana gross income tax under IC 6-2.1-3-20 through IC 6-2.1-3-22 and that offers food for sale to the final consumer at an event held for the benefit of the organization is exempt from complying with the requirements of this chapter that may be imposed upon the sale of food at that event if the following conditions are met:

1. Members of the organization prepare the food that will be sold.

2. Events conducted by the organization under this section take place for not more than thirty (30) days in a calendar year.

3. The name of each member who has prepared a food item is attached to the container in which the food item has been placed.

This section does not prohibit an exempted organization from waiving the exemption and applying for a license under this chapter. As added by P.L. 2-1993, SEC. 25.

### Section III. Minimum Sanitation Requirement for Food Establishments

All food establishments shall comply with the minimum sanitation requirements specified by applicable Indiana State Department of Health Regulations and any amendments thereto. Such regulations promulgated are by reference incorporated herein and made a part hereof. Two copies of which are on file in the office of the Auditor of Boone County, Indiana, for public inspection.

#### Section IV. Inspection of Food Establishment

The Health Officer shall inspect each full time food establishment for which a permit is required under the provisions of this ordinance twice a year or more frequently if it is deemed desirable or necessary by said health officer.

#### Section V. Approval of Plans

All food establishments which are constructed, remodeled or altered shall comply with the applicable requirements of Section III of this ordinance. Plans and specifications for construction, remodeling or alteration shall be submitted to and approved by the Health Officer. The building inspector of Boone County and building inspectors of incorporated cities and towns in said county may not issue a building permit for any food establishment until and unless the plans have been submitted to and approved by the Health Officer.

#### Section VI. Disease Control

No person shall be permitted to work in a food establishment who does not meet the Health requirements specified by the applicable Indiana State Department of Health Regulations.

#### Section VII. Damage to Premises of Food

In the event of a fire, flood, power outage or any damage to premises or food that might result in the contamination or adulteration of food (including, but not limited to, any occurrence which may prevent food from being held at required temperature) the owner, manager, operator or person in charge of the food establishment shall immediately inform the Boone County Health Department of the event or occurrence.

#### Section VIII. Penalties and Revocation of Permit

In the event any person fails to timely obtain a permit, fails to renew a permit on or before January 10<sup>th</sup> of each year, or fails to comply with any other provision of this

ordinance, a penalty may be assessed by the Health Office in an amount equal to twice the amount of the applicable permit fee.

Failure to comply with this ordinance and applicable regulations of the State Department of Health may be grounds for revocation of a permit.

## Section IX. Appeal Procedures

A. In the event a health officer imposes a fine, denies the request for a permit, revokes a permit, or takes other enforcement action pursuant to this ordinance and/or Indiana State Department of Health Regulations, written notice shall be provided to the offending party by certified mail, return receipt required with an explanation for the basis of the action taken.

B. The person or establishment affected by the action taken by the health officer may appeal that action by submitting a written request to appeal by stating the reason why he believes the action of the health officer was inappropriate or erroneous. The written request for appeal must be made within ten (10) days of receipt of the notice of action. If a request for appeal is not made within ten (10) days, the right to an appeal is waived. The written request to appeal must be submitted to the Boone County Health Department, by certified mail.

C. Upon receipt of a written request to appeal, the Boone County Board of Health shall schedule a hearing and notify the person requesting the appeal of the time and date of the hearing. The person or establishment appealing shall have at least ten (10) days notice of the hearing. The hearing shall be held within forty-five (45) days of receipt of the request for appeal. The person appealing shall have the right to have an attorney present to represent him.

## Section X. Unconstitutionality Clause

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason the remainder of said Ordinance shall not be affected thereby.

Section XI. Repeal and Date of Effect

All ordinances and parts of the ordinances in conflict with this Ordinance are hereby repealed and this Ordinance shall be in full force and effect from and after its passage and approval by Commissioners and publication as required by law.

Passed and adopted by the Commissioners of the Boone County, State of Indiana, this 6<sup>th</sup> day of February, 1995.

Attest: \_\_\_\_\_  
Auditor Connie J. Lamar

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Thelma Theobald

\_\_\_\_\_  
Larry R. Frye

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Robert E. Guernsey

COMMISSIONERS OF BOONE COUNTY

# BOONE COUNTY HEALTH DEPARTMENT

## RETAIL FOOD SERVICE ESTABLISHMENT FEES

Retail Food Service Establishment Permit Fees as set forth in Boone County Ordinance 2003-13 as adopted July 7<sup>th</sup>, 2003.

### Restaurants

1 – 50 Seats	\$ 25.00
51 – 100 Seats	\$ 75.00
More than 100 Seats	\$ 125.00

### Retail Establishments

0 – 2,999 Sq. Ft.	\$ 25.00
3,000 – 6,999 Sq. Ft.	\$ 75.00
7,000 Sq. Ft. or more	\$ 125.00

<u>Catering</u>	\$ 25.00
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<u>Carry-Out</u>	\$ 25.00
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<u>Bed &amp; Breakfast</u>	\$ 25.00
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<u>Temporary Food Service</u> (Event Four days or more)	\$ 25.00
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\* Late fees for food permits will be double the amount of the yearly permit fee.